



POLICE DEPARTMENT

November 30, 2015

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Eugene Durante  
Tax Registry No. 918989  
25 Precinct  
Disciplinary Case Nos. 2012-7857, 2012-8151 & 2014-11298

---

The above-named member of the Department appeared before me on October 5 and 6, 2015, charged with the following:

Disciplinary Case No. 2012-7857

1. Said Police Officer Eugene Durante, assigned to Transit Bureau District 34, while on duty, on August 3, 2011, at about 2243 hours, at the [REDACTED] did improperly use physical force against an individual without having police necessity to do so, to wit: Said Police Officer Durante slapped an individual in the head.

P.G. 203-11 – USE OF FORCE

Disciplinary Case No. 2012-8151

1. Said Police Officer Eugene Durante, assigned to Transit Bureau District #34, while on duty and inside the District #34 station house, on or about August 31, 2012, having been lawfully ordered by Lieutenant Richard Langmaack to leave the locker room, did thereafter fail and neglect to comply with said order.

P.G. 203-03, Page 1, Paragraph 2 – GENERAL REGULATIONS,  
COMPLIANCE WITH ORDERS

2. Said Police Officer Eugene Durante, assigned to Transit Bureau District #34, while on duty and inside the District #34 station house, on or about August 31, 2012, having been lawfully ordered by Lieutenant Richard Langmaack to stand by in the locker room, after said Police Officer Durante failed to comply with Lieutenant Langmaack's earlier order to leave the locker room, did thereafter fail and neglect to comply with said order.

P.G. 203-03, Page 1, Paragraph 2 – GENERAL REGULATIONS,  
COMPLIANCE WITH ORDERS

3. Said Police Officer Eugene Durante, while on duty and assigned to Transit Bureau District #34, on or about August 31, 2012, within the confines of the District #34 station house, was discourteous to Lieutenant Richard Langmaack. *(As amended)*

P.G. 203-09, Paragraph 2 – GENERAL REGULATIONS,  
PUBLIC CONTACT – GENERAL

Disciplinary Case No. 2014-11298

1. Said Police Officer Eugene Durante, while on duty, and assigned to Transit District 34, on or about August 17, 2012 to August 31, 2012, inside the [REDACTED], did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Police Officer Durante wrote multiple entries in unauthorized notebooks that were not related to official Department business.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED  
CONDUCT, GENERAL REGULATIONS

2. Said Police Officer Eugene Durante, while on duty, and assigned to Transit District 34, on August 31, 2012, at around 1145 hours to 1500 hours, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Police Officer Durante used his personal vehicle without permission or authority to attend a meeting at the Transit Borough Brooklyn Command.

P.G. 203-06, Page 1, Paragraph 9 – PERFORMANCE ON DUTY – PROHIBITED  
CONDUCT, GENERAL REGULATIONS

The Department was represented by Joshua Kleiman, Esq., Department Advocate's Office, and Respondent was represented by Stuart London, Esq. The Department called Jennifer Woods, Sergeant Alexander Crouch, Lieutenant Richard Langmaack, and Tammy Plaza-Nunez as witnesses. Respondent called Police Officer Kenneth Chintamani and Police Officer Robert Karroll as witnesses. Respondent testified on his own behalf.

Respondent, through his counsel, entered a plea of Not Guilty to the subject charges. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

Disciplinary Case No. 2012-7857

Respondent is found Guilty.

Disciplinary Case No. 2012-8151

Respondent is found Not Guilty of Specifications 1, 2 and 3.

Disciplinary Case No. 2014-11298

Respondent is found Guilty of Specification 1 and Not Guilty of Specification 2.

FINDINGS AND ANALYSIS

Disciplinary Case No. 2012-7857

Respondent is charged with improperly using physical force without police necessity when he slapped an unidentified individual in the head and face inside a train station. Because this tribunal finds that the use of force, to which Respondent has admitted, was unnecessary under the circumstances, Respondent is found Guilty as charged.

On August 3, 2011 at approximately 2243 hours, Respondent responded to t [REDACTED]  
[REDACTED] Tammy Plaza-Nunez and Jennifer Woods, station attendants working in an enclosed booth, had twice pressed a button indicating that they needed emergency assistance. Plaza-Nunez explained that a belligerent, intoxicated man had been banging on the booth, demanding that she let him go through the turnstile without paying, threatening her when she did not allow him to do so, and was refusing to leave the station. (Tr. 26-27, 151-152) Because of his behavior, she was afraid to exit the booth at the end of her shift when Woods arrived to cover. (Tr. 27).

Respondent arrived at the station by himself. (Tr. 223) After observing the man's irate behavior at the booth, Respondent walked directly behind him and smacked him on the back of the head. (Tr. 152, 226) Words were exchanged between Respondent and the man, and Respondent smacked him again in the face. (Tr. 153, 228)

Respondent attempted to "lure" the man upstairs to exit the station. The man followed Respondent toward the stairs but did not exit, and instead went back toward the turnstiles. (Tr. 172, 231-233). Ultimately, Respondent physically led the man out of the station by placing him into an "arm bar" behind his back and marching him up the stairs. (Tr. 233). When they got to the top of the stairs, Respondent told the man to leave; the man complied, and Respondent followed him at a distance to make sure he did not walk back toward the station. (Tr. 234).

Respondent did not deny that he hit the man twice. In dispute is whether his doing so was improper. The only testimony about the circumstances surrounding his use of force was provided by the station attendants and Respondent himself, as the man involved in the altercation was never identified.

Woods, who seemed nervous about testifying, noted that neither slap by Respondent was "extremely hard" but that his actions took her by surprise. (Tr. 28). She viewed the slaps as "unnecessary force," though she acknowledged that the man being slapped seemed to have no fear of Respondent. (Tr. 44, 49).

Plaza-Nunez testified that she could not recall what was said between Respondent and the man because she was so upset by the situation, and she still appeared nervous and uneasy on the witness stand. She stated that she did not know if Respondent called for back-up because she was so "afraid and upset" that she did not want to look at him. (Tr. 154). She

recalled that the man clenched his fists toward the officer after the second slap, which she agreed was "a light slap." (Tr. 157, 169) She contended that she was traumatized by the actions of both the man and the officer, but more so by Respondent as she did not expect him to slap the man and was upset that he did so. (Tr. 166, 171).

Respondent explained that he was somewhat vulnerable in having to deal with the belligerent male without a partner or any backup. (Tr. 232) He tried yelling, "Sir, Sir" repeatedly to get the man's attention, but to no avail. When this did not work, he "smacked him to get his attention," explaining "I wanted to let him know that hello, somebody is talking to you over here." Respondent testified that the man turned around and said, "I'll kick your fucking ass." He observed the man clenching his fists and his jaw and, in response, smacked him again in the face before retreating. Respondent clarified that he may have actually slapped the man's shoulder, as the man was approximately two inches taller than Respondent. (Tr. 226-228).

Patrol Guide section 203-11 provides that at the scene of a police incident, members of the service must use only "minimum necessary force." It further notes that the application of force must be consistent with New York City Police Department Values to "respect the dignity of each individual." While I credit the testimony of all of the witnesses that the man was behaving in a belligerent and irate manner, the circumstances did not justify Respondent's almost immediately resorting to slapping the man after he could not get his attention by calling out "Sir, Sir." Twice slapping the man was both unnecessary and unproductive under the circumstances. Respondent improperly used physical force on the individual, and I find him Guilty.

Disciplinary Case No. 2012-8151

Respondent is charged with disobeying a lieutenant's order to leave a precinct locker room, subsequently disobeying his order to stand by, and being discourteous toward the lieutenant. After evaluating the testimony of the witnesses to the event, I find that Respondent did not willfully disobey the orders of the lieutenant and was not discourteous toward him.

On August 31, 2012, officers from the Transit Investigations Bureau were conducting patrol monitoring and inspecting the [REDACTED]<sup>1</sup> at the [REDACTED] subway station. Sergeant Alexander Crouch of Transit Investigations observed Police Officer John Borrero writing in a "marble-type" notebook entitled "Thoughts from [REDACTED]" (Tr. 60). A few weeks prior, a notebook entitled [REDACTED], containing vulgar and profane language and content, had been confiscated from the same booth. (Tr. 57-58). Borrero was suspended for impeding the investigation because he ripped a page out of the book. (Tr. 62, 80-81).

Lieutenant Richard Langmaack of Transit Investigations searched Borrero's locker for additional books that afternoon. No books were found. (Tr. 128-129, 131). Respondent observed Langmaack searching Borrero's locker. They had an exchange where Langmaack asked Respondent to identify himself, and noted that Respondent had unauthorized Christmas lights on his locker and probably shouldn't be drawing attention to himself. (Tr. 134-135, 288).

Later that day, Crouch and Langmaack accompanied Borrero to his locker to retrieve his firearms. Respondent was also present, acting as a PBA delegate, since a PBA

---

<sup>1</sup> Omega booths are stationary booths located at subway stations near the end of a tunnel that leads into another borough. These booths are an additional security measure created after the 9/11 attacks.

convention was taking place in Albany that day and no delegates were available. At some point, Respondent informed Borrero that the investigating officers were "lying" to him, as they had been in his locker earlier that day. (Tr. 250). Langmaack suggested that Respondent should leave, but Respondent asserted that he was there on behalf of the PBA. Langmaack then ordered Respondent to leave the locker room. Respondent stepped back from Borrero's locker and yelled to Borrero that he should not trust the investigators as they were not his friends, and proceeded toward the door. (Tr. 65, 251-252). Langmaack directed Respondent to stand by, and followed him out to the stairwell. Langmaack directed a desk officer that Respondent was not to leave the command. Respondent waited at the desk and was suspended a few hours later.

At issue is whether Respondent willfully disobeyed the orders of Langmaack, first to leave and then to stay, and whether Respondent was discourteous to the lieutenant. Testimony regarding what transpired in and around the locker room was provided by Crouch, Langmaack, Police Officer Robert Karroll, Police Officer Kenneth Chintamani, and Respondent, all of whom were present in the locker room.

Langmaack testified that Respondent was expressing displeasure at the investigators' presence and that he suggested Respondent leave because he was "not helping" the situation. He described Respondent as "combative about . . . saying that he has the right to be here and that he's not going to leave." (Tr. 124-125). He insisted that he ordered Respondent to leave twice, and warned him that he would be suspended. At this point, Respondent was "more or less walking away, like backing away from me out of the aisle" but continued talking over him and referred to the investigators as "scumbags." (Tr. 125-126, 140, 143). Langmaack stated that he then ordered Respondent to "remain here", but Respondent failed to comply

and exited the locker room. (Tr. 125). Langmaack conceded that Respondent did not physically interfere with the investigation or the retrieval of Borrero's firearms. (Tr. 138, 148). From observing Langmaack's testimony, this tribunal sensed that the lieutenant was extremely upset with how Respondent was speaking in front of others in the locker room, and Langmaack may have exaggerated his description of Respondent's non-compliance because of that.

Respondent was detailed and consistent in his testimony. He testified that he waited until after the firearms were secured before telling Borrero that Langmaack was lying about previously searching his locker. (Tr. 249-250). He contended that after being ordered to leave he moved toward the exit, although he acknowledged that he did scream over to Borrero not to trust the investigators as he was exiting. (Tr. 251) He insisted that he did not hear Langmaack tell him to stand by, as he already was out the door. When he was walking down the staircase, he heard Langmaack calling out that he had told him to stand by. Respondent recalled that he laughed because he was confused since Langmaack had just ordered him to leave. (Tr. 252-253, 290-291). He then complied with Langmaack's order to stand by the desk. Respondent denied ever using the word "scumbag." (Tr. 254).

Some of the discrepancies between the accounts of Langmaack and Respondent can be resolved through the testimony of others present. Crouch, who was "close in proximity" to Langmaack testified that Respondent was "in the process of leaving" when Langmaack directed him to stand by. (Tr. 65). He stated that he could not hear Respondent's comments as he was leaving because he remained focused on securing Borrero's firearm. He did state that he did not recall hearing the word "scumbag." (Tr. 101)



Police Officers Chintamani and Karroll, each of whom knew Respondent from the command, were present in the locker room during the incident; both testified consistently and credibly about what occurred. Chintamani corroborated Respondent's compliance, in that he saw Respondent walk past him toward the exit after Langmaack ordered Respondent to leave. Chintamani then heard a door slam, and about three to four seconds later heard a voice say "stand by." (Tr. 185-186, 190). He never heard the word "scumbag." (Tr. 185-186). Similarly, Karroll corroborated Respondent's account, testifying that he observed Respondent leave the locker room after being ordered to do so. Karroll heard Langmaack direct Respondent to stand by approximately ten seconds after Respondent already had left the locker room. (Tr. 205-206, 214) Karroll also did not hear Respondent use the word "scumbag." (Tr. 205)

As to Specification One, the Department has failed to prove by a preponderance of the evidence that Respondent did willfully disobey an order to leave the locker room. Aside from Respondent's testimony, there was credible testimony from two officers who were present that Respondent left the locker room after he was ordered to do so. Even Crouch, a member of Langmaack's team, testified that after receiving the order to leave, Respondent was, in fact, "in the process of leaving." (Tr. 65). Further, no one disputes that Respondent did actually vacate the locker room and Langmaack had to follow him out to the stairs. Based on the testimony, it is clear that Respondent, after hearing Langmaack's order, immediately began to exit the locker room. Accordingly, I find Respondent Not Guilty.

With regard to Specification Two, I find that the Department has not met its burden of proving that Respondent willfully failed to comply with Langmaack's order to stand by. While Langmaack testified that Respondent "ran away" after he was directed to stand by,

two other officers present in the locker room testified that the directive to stand by came a few seconds after the door closed and Respondent presumably had exited. By this point the situation had become tense, with both Respondent and Langmaack speaking loudly and Respondent moving toward the exit. Langmaack's perception of what Respondent heard may be different from what Respondent actually heard. It seems not only plausible but highly likely that Respondent was out of the locker room and did not hear the directive to stand by. Further, Respondent complied with the initial order to exit the locker room, and the later order to stand by the desk, so it does seem that he was making efforts to comply with Langmaack's directives. For these reasons, I find Respondent Not Guilty.

As for Specification Three, the Department also has failed to prove that Respondent was discourteous. Respondent, in his role as a fill-in "delegate", admittedly expressed to Borrero his distrust for what Langmaack and his team were doing; but this behavior did not rise to the level of discourtesy. There was no testimony supporting Langmaack's contention that Respondent referred to him as a "scumbag", despite the presence of three other officers in the locker room, all of whom testified they did not hear that word being said. As to Langmaack's testimony that Respondent laughed at his directive to stand by, I find that while Respondent did smile or laugh, he was not being discourteous or mocking Langmaack. As Respondent explained, he was confused because Langmaack had ordered him to leave just moments before. His counsel pointed out that Respondent has a habit of nervous laughter, which I observed firsthand while he was on the witness stand; he smiled at points during his testimony, but did not appear to be doing so in a disrespectful way. (Tr. 253, 322-323). I am not persuaded by the evidence that Respondent was being discourteous, and I find Respondent Not Guilty.

Disciplinary Case No. 2012-11298

Respondent is charged with (i) making multiple entries in unauthorized notebooks, while on duty, that were unrelated to Department business, and (ii) using his personal vehicle to attend a meeting at the Transit Borough command without permission. Based on Respondent's admission that he did make entries in the notebooks, he is found Guilty of Specification One. As to Specification Two, this tribunal is not persuaded that Respondent's use of his personal vehicle under the present circumstances rises to the level of actionable misconduct, and therefore finds him Not Guilty.

Specification 1

As noted in the earlier discussion of *Case No. 2012-8151*, officers from Transit Bureau Investigations confiscated notebooks entitled "[REDACTED]", *Versions 3.0 and 4.0*, from the [REDACTED] at the [REDACTED] subway station. (Dept. Exs. 1 & 2). Sergeant Alexander Crouch characterized the books as containing "offensive" and "vulgar" material. (Tr. 58, 68). He further explained that the books were "unauthorized articles" in the [REDACTED] which is considered a Department facility. (Tr. 68). Crouch stated, "when officers are assigned to the [REDACTED] they're not - - they're not allowed to have unauthorized articles, such as mobile devices to view movies or magazines or newspapers . . . while they're performing their assigned duties inside of the [REDACTED]" (Tr. 73). He noted that there was a Transit Bureau memo which specified the rules officers must adhere to while on-duty in an [REDACTED] (Tr. 74).<sup>2</sup> Crouch acknowledged that approximately thirty officers in Respondent's command were penalized with command disciplines for making entries in the notebook and generally received penalties of one vacation day. (Tr. 80).

---

<sup>2</sup> The memo was not entered into evidence and Crouch could not recall the specific date of the memo.

Crouch conducted an official Department interview with Respondent on August 13, 2013, where his involvement with the notebooks was addressed. (Tr. 67). Crouch testified that Respondent admitted to writing "ATT: Do Not Steal", "Here We Go Again", and "Evidence" on the cover of the book marked as Version 4.0, as well as the "Thoughts from York" title. (Tr. 69). He also recalled that Respondent admitted to writing in the inside cover, "Why must supervisory personnel keep committing crimes while on duty by stealing and possessing property they do not lawfully own?? Then the thieves have the nerve to criticize cops for writing in the notebook, a legal act. Investigate yourselves and leave us be!", as well as "An Open Letter to Inspections" on page 3 of the notebook, which consisted of two paragraphs criticizing the investigators for removing the previous book. (Tr. 69-70, 76-79; Dept. Ex 2). In Version 3.0, Crouch asserted that Respondent admitted to writing on the first page, "A creative antidote for a dull tunnel post. For entertainment purposes only. Please be advised that this diary is property of the D-34 club." (Tr. 82, 241) On cross-examination, Crouch confirmed that Respondent was not connected with any of the anti-female, homophobic or other offensive comments in the book. The author of those entries was never identified and no testing was performed on either book. (Tr. 84)

Respondent acknowledged that there were notebooks in the [REDACTED] that officers wrote in to express frustrations and for entertainment. (Tr. 239-243). He acknowledged making entries in the books, but denied starting the books or bringing them into the booth. (Tr. 240-241, 292-294). He further acknowledged writing the segments that were identified by Crouch during his testimony as well as entries on pages 33, 34, 44 and 104 of Book 3.0; several of those entries dealt with the sunshine club that he ran. He denied making derogatory, anti-feminine or homophobic comments. (Tr. 241-243, 306-307) On

cross-examination, he agreed that the books were unrelated to official Department business. (Tr. 292).

This tribunal credits Crouch's testimony that no unauthorized articles, such as books or newspapers, are permitted in an [REDACTED]; the purpose of this rule is so that an officer assigned to a booth will not be distracted from the task of monitoring the tunnels. As such, Respondent committed misconduct by making entries in these unauthorized books while on-duty, assigned to monitor the station and tunnels. Because Respondent admitted to making entries in the notebooks that were unrelated to Department business, he is found Guilty of Specification One.

#### Specification 2

Regarding Specification Two, Crouch testified that Respondent had admitted using his personal vehicle on August 31, 2012 to travel from his command to a meeting at Transit Borough Brooklyn, and that Respondent did so without permission from the on-duty desk officer. (Tr. 71). Crouch conceded that he never asked Respondent whether anyone other than the desk officer had given Respondent permission to use his personal car. (Tr. 86-87, 107).

Respondent testified that before his regular shift on August 3, he had a scheduled meeting with the Borough Inspector regarding a Medal Day ceremony. (Tr. 235-236). Respondent ran the District 34 sunshine club, which used the revenue generated from the command's vending machines for various activities. The club was partially subsidizing the Medal Day ceremony. (Tr. 221, 236). Respondent maintained that the Borough Inspector, Inspector Galatioto, had told him "a few weeks to a few months prior" that he could take his personal car for club functions because Respondent had informed him there was frequently a

shortage of Department vehicles for use for club purposes. (Tr. 236-238). It was Respondent's understanding that Galatioto had advised his Captain on this matter. Respondent explained that on the day in question, he had asked the lieutenant if there were any vehicles available for him to take to the meeting, and when he was advised there were not, he used his personal vehicle, while in uniform, to drive to the Borough. (Tr. 236, 282).

It is the Department's burden to prove that Respondent lacked authorization to use his personal vehicle. Respondent provided a plausible account of how he received permission to use his personal vehicle for club functions from the Borough Inspector. Although he did not mention this in his GO-15 interview, Respondent explained that he was asked only about receiving permission from a desk officer, and Crouch confirmed that was what Respondent had been asked. (Tr. 107) Otherwise, the Department offered nothing to discredit Respondent's testimony about receiving permission from the Borough Inspector, and I find Respondent Not Guilty.

#### PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 N.Y.2d 222 (1974). Respondent was appointed to the Department on April 15, 1997. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

Respondent, who has been with the Department over 18 years without any disciplinary history, was charged with six specifications in three separate disciplinary actions. He has been found Guilty of just two of those specifications: improper use of force,

and making entries in unauthorized notebooks that were not related to official Department business. The Department Advocate seeks forfeiture of thirty-one (31) suspension days without pay already served, twenty-three (23) suspension days with pay already served, eleven (11) vacation days and one-year dismissal probation to cover all of the specifications in the three cases.

When asked to parse out its penalty recommendation, the Department Advocate suggested that thirty vacation days and dismissal probation would be an appropriate penalty to address the discourtesy and failure to obey orders charges, and that eight vacation days would be an appropriate penalty for the improper use of a personal vehicle. (Tr. 336-338). Since Respondent has been found Not Guilty of those charges, the suggested penalty, particularly dismissal probation, seems excessive here.

On the force specification, this tribunal believes that a penalty of five days appropriately and adequately addresses the misconduct committed and is consistent with Department precedent. Although he engaged in misconduct, this tribunal acknowledges that Respondent was in a difficult situation, dealing with an agitated, non-compliant, apparently intoxicated individual who he was trying to eject from a train station. Respondent's decision to smack the individual was improper, but the two slaps were open-handed and were described by one of the station attendant witnesses as "light." (Tr. 169, 176). See *Disciplinary Case No. 2013-9972* (March 27, 2015) (Respondent forfeited five vacation days for slapping arrestee with an open hand on the side of the head. ADCT determined the force was gratuitous as the arrestee was compliant, but noted that a slap warranted a lesser penalty than more aggressive force such as punching or kicking.).

As to the unauthorized notebooks charge, the Department Advocate characterized this as a case of "first impression." (Tr. 338). Sergeant Crouch testified that most officers from Respondent's command received command discipline penalties of one vacation day for making notebook entries. (Tr. 80). Some, such as Officer Chintamani, lost four hours for failure to report the existence of the book to IAB. (Tr. 188) The other extreme is the case of Police Officer Borrero, who was caught in the [REDACTED] with one of the notebooks; he negotiated a penalty of 25 suspension days and restoration of 6 suspension days already served for (i) making entries in a notebook that were unrelated to official Department business; (ii) making multiple entries into notebooks that were unrelated to official Department business and which contained entries of a discourteous and offensive nature; (iii) failing to notify the Internal Affairs Bureau, having observed entries of a discourteous and offensive nature; and (iv) removing and discarding a page from a notebook which contained an entry of a discourteous nature concerning another member of the service that the officer had just written, after seeing investigators assigned to the Transit Bureau Investigations Unit approaching. *Disciplinary Case No. 2012-08150* (July 24, 2015). This Respondent, in contrast, has only one specification, for making entries in notebooks that were unrelated to official Department business. Respondent was not charged with anything related to the discourteous nature or substance of his entries. It stands to reason that Borrero's penalty would be significantly heavier, in particular because he actively impeded an investigation by removing a page he wrote from one of the books, presumably in an attempt to avoid detection.

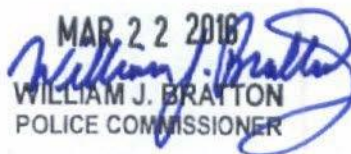
To be sure, there needs to be some accountability for Respondent's actions: he made multiple entries into these books while he was supposed to be alert and focused on




monitoring the subway tunnels. Respondent also acknowledged writing the titles on the front covers of both books, and made an entry on the inside cover of Version 4.0 where he labeled supervisors as "thieves" for confiscating the previous book. Though this tribunal does not agree with the Department Advocate that these entries prove that Respondent was the "mastermind" of the books, they do suggest a slightly greater level of involvement compared with other officers. Taking all of the facts and circumstances into account, I recommend five (5) suspension days as an appropriate and reasonable penalty for the notebook-related misconduct.

In sum, this tribunal believes that a penalty of five (5) days is appropriate for the force specification, and a penalty of five (5) days is appropriate for the unauthorized notebook entries. Respondent was suspended without pay for thirty-one (31) days. I therefore recommend that Respondent forfeit ten (10) of those thirty-one (31) days, and that the additional twenty-one (21) days he served on pretrial suspension without pay be restored to him.

**APPROVED**

MAR 22 2018  
  
WILLIAM J. BRATTON  
POLICE COMMISSIONER

Respectfully submitted,



Jeff S. Adler

Assistant Deputy Commissioner - Trials

POLICE DEPARTMENT  
CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials  
To: Police Commissioner  
Subject: CONFIDENTIAL MEMORANDUM  
POLICE OFFICER EUGENE DURANTE  
TAX REGISTRY NO. 918989  
DISCIPLINARY CASE NOS. 2012-7857, 2012-8151, 2014-11298

Respondent was appointed to the Department on April 15, 1997. His last three annual evaluations were a 4.0 overall rating of "Highly Competent" in 2014, a 3.5 overall rating of "Highly Competent/Competent" in 2013 and a 3.0 rating of "Competent" in 2012. He has received four medals for Excellent Police Duty.

Respondent has no prior formal disciplinary history. He was placed on Level 2 Disciplinary Monitoring on January 23, 2013 in connection with the instant charges and specifications.



For your consideration.

A handwritten signature in blue ink, appearing to read "Jeff Adler".

Jeff S. Adler  
Assistant Deputy Commissioner – Trials